



United States Environmental Protection Agency, Region 2
Caribbean Environmental Protection Division
Multimedia Permits and Compliance Branch

**NPDES Compliance Evaluation Inspection
Municipal Separate Storm Sewer System**

Permittee

MUNICIPALITY OF CAYEY
P. O. Box 371330
Cayey, Puerto Rico 00737
Telephone Number: (787) 263-0894

Statute / Regulations

Sections 301(a), 308(b) and 402(p) of the Clean Water Act
40 Code of Federal Regulations Part 122.26

NPDES ID Number: PRR040047

Inspection Date: June 21, 2024

Participating Personnel:

U.S. EPA:

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Senior Environmental Engineer

Arturo Arzón
Environmental Engineer

Municipality of Cayey:

Elba Almedina
Planning Office Director

Inspection Report
Prepared by:

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07/15/2024

Date

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1. INTRODUCTION

This Inspection Report includes the findings and observations concerning the National Pollutant Discharge Elimination System (“NPDES”) Compliance Evaluation Inspection (“Inspection”) conducted by Yolianne Maclay, P.E., Environmental Engineer (“Inspector Maclay”), and Arturo Arzón, Environmental Engineer (“Inspector Arzón”) (collectively, the “EPA Inspectors”), of the United States Environmental Protection Agency (“EPA”), Region 2, Caribbean Environmental Protection Division (“CEPD”), at the Municipality of Cayey (“Permittee” or the “Municipality”).¹

The purpose of the Inspection was to evaluate Municipality’s compliance with the NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) in the Commonwealth of Puerto Rico (“MS4 Permit”). The Inspection was focused on two of the six Minimum Control Measures (“MCMs”) named “Public Education and Outreach” and “Construction Site Stormwater Runoff Control”, which conditions and requirements are found in Parts 2.4.2 and 2.4.5 of the MS4 Permit.

Upon showing of credentials to Ms. Elba Almedina, Planning Office Director, the EPA Inspectors conducted the Inspection under the authority of Section 308(b) of the Clean Water Act (“CWA”). The Inspection consisted of an entry meeting to discuss the purpose of the Inspection, a document request to assess records for compliance review, and a closing meeting to discuss preliminary findings.

2. PARTICIPANTS

The following official represented the Municipality during the Inspection:

Ms. Elba Almedina
Planning Office Director
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Email: ealmedinacayey@gmail.com

3. PERMIT INFORMATION

On November 6, 2006, EPA issued an MS4 Permit for regulated MS4 entities located in the Commonwealth of Puerto Rico (“2006 MS4 Permit”). After the expiration of the 2006 MS4 Permit, EPA issued an MS4 Permit (“2016 MS4 Permit”) for regulated MS4 entities located in Puerto Rico on June 13, 2016. The 2016 MS4 Permit replaced the 2006 MS4 Permit.

The 2016 MS4 Permit became effective on July 1, 2016, and expired on June 30, 2021. EPA administratively continued the 2016 MS4 General Permit for those MS4 entities that obtained

¹ On June 18, 2024, Inspector Maclay sent an email to Ms. Elba Almedina to provide notice of the Inspection. The email included a statement about the date and purpose of the Inspection.

coverage in accordance with the 40 C.F.R. § 122.6(a).² Pursuant to 40 C.F.R. § 122.6(b), the 2016 MS4 Permit remains fully effective and enforceable.

On December 5, 2016, the Municipality submitted a Notice of Intent form (the “2016 NOI”) to EPA seeking coverage under the 2016 MS4 Permit. EPA granted coverage on January 9, 2017.

4. FACILITY DESCRIPTION

The Municipality of Cayey was created under the laws of the Commonwealth of Puerto Rico and is located in the central region of the island neighboring with the municipalities of Aguas Buenas, Gurabo, and San Lorenzo. The Municipality owns and operates a Small MS4 and has urbanized areas, as defined by the Census Bureau³. The stormwater runoff generated at the urbanized areas is transported through a system of conveyances consisting of among other appurtenances, storm drains, pipes, ditches, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, and storm drains.

5. ENTRY MEETING

The Inspection began at 9:20 a.m., when the EPA Inspectors presented their credentials to Ms. Elba Almedina. Inspector Maclay explained that the purpose of the Inspection was to evaluate Municipality’s compliance with the 2016 MS4 Permit; specifically, Municipality’s implementation of the Public Education and Outreach MCM and Construction Site Stormwater Runoff Control MCM. Inspector Maclay briefly explained the NPDES permitting program and the requirements of the 2016 MS4 Permit. Ms. Almedina explained that the Municipality lacks the resources to properly implement the requirements of the MS4 Permit. She further stated that in the past, the Municipality has used the services of a private consultant to assist in the implementation of the MS4 Permit. Then, EPA Inspectors proceeded to request documents that the Municipality is required to prepare and keep under the 2016 MS4 Permit.

6. DOCUMENT REVIEW

The EPA Inspector requested records concerning the Stormwater Management Program (SWMP), Annual Reports for calendar years 2019 to 2023, education program that includes goals based on stormwater issues, and Municipality’s program requiring operators of construction activities to select, install, implement, and maintain stormwater control measures that prevent illicit discharges. Below are the responses provided by Ms. Almedina:

A. Stormwater Management Program (SWMP) - Section 2.3 of the 2016 MS4 Permit states that *“A SWMP shall be developed, implemented and enforced...”*.

² See 5 U.S.C. § 558(c).

³ Refer to the Census 2020 Urban Area Reference Map in the following link <https://www.arcgis.com/home/webmap/viewer.html?url=https%3A%2F%2Ftigerweb.geo.census.gov%2Farcgis%2Frest%2Fservices%2FTIGERweb%2FUrban%2FMapServer&source=sd>

The SWMP was not available during the Inspection. Ms. Almedina agreed to review their files to determine whether a SWMP had been developed.

Through review of EPA records, Inspector Maclay found that EPA has not received a SWMP.

- B. Annual Reports (ARs)** – Section 3.0 of the 2016 MS4 Permit requires that the permittee shall *“conduct a self-evaluation of its compliance with the terms and conditions of the MS4 General Permit and submit an annual report due thirty days after July 1”*.

Inspector Maclay requested the Annual Reports from 2019 to 2023. The Municipality Official did not provide the requested ARs.⁴

- C. System Mapping** – Section 2.4.4.6 of the 2016 MS4 Permit requires that the permittee shall *“develop a revised and more detailed map than was required by the 2006 Small MS4 General Permit”*.

The Municipality Official indicated that the MS4 Map has not been developed.⁵

D. Public Education and Outreach

- 1) **Comprehensive Stormwater Education and Outreach Program** - Section 2.4.2.1 of the 2016 MS4 Permit requires the permittee to *“develop, implement, and maintain a comprehensive stormwater education and outreach program to educate public employees, businesses, and the general public of hazards associated with the illegal discharges and improper disposal of waste and about the impact that stormwater discharges can have on local waterways, as well as the steps that the public can take to reduce pollutants in stormwater.”*

The Municipality’s officials indicated that the Municipality has not developed a comprehensive stormwater education and outreach program.

- 2) **Educational materials** - Section 2.4.2.2 of the 2016 MS4 Permit requires the permittee to *“throughout the permit term, all permittees shall make the educational materials available to convey the program’s message to the target audience(s) at least annually.”*

Ms. Almedina showed the EPA Inspectors a video developed by the Municipality about illicit discharges and promoting notification through a telephone number (787-263-

⁴ Through a review of EPA records, Inspector Maclay found that the Municipality has not submitted to EPA any ARs from 2019 to the present.

⁵ Furthermore, through review of EPA records, Inspector Maclay found that the Municipality indicated in their 2016 NOI form that the MS4 Map has not been developed.

0880) to report illicit discharges. Ms. Almedina explained that the video is shown at baseball games and Municipality's social media accounts.

E. Construction Site Stormwater Runoff Control

Section 2.4.5 of the 2016 MS4 Permit requires the permittee to *“develop, implement and enforce a program requiring operators of small and large construction activities, to select, install, implement, and maintain stormwater control measures that prevent illicit discharges to the MEP.”*

The MS4 General Permit requires that the Construction Controls Program includes the following elements:

- a. **Legal Authority** – Section 2.4.5.3 of the 2016 MS4 Permit requires an *“ordinance or other regulatory mechanism that requires the use of sediments and erosion control practices at construction sites”*.

Ms. Almedina showed an ordinance number ORD. 19-2021-2022. This Ordinance states that *“[T]o authorize the Hon. Rolando Ortiz Velázquez, Mayor of Cayey, to adopt the regulations to prevent, detect and eliminate pollution from construction and post-construction activities and for other purposes”* adopted on November 16, 2021. The ordinance adopts the *“Reglamento para Establecer el Procedimiento a Seguir Prevenir, Detector Y Elimianr La Contaminacion Por Actividades De Construction Y Post-Construction,...”*⁶

Section XIV of the Cayey Construction Regulation requires the owner or operator of a commercial or industrial establishment to provide, at its own expense, reasonable protection from accidental discharges of prohibited materials or other wastes into the MS4 or water bodies through structural and non-structural measures.

- b. **Requirements for construction operators** - Section 2.4.5.3.b of the 2016 MS4 Permit requires the implementation of *“sediment and erosion control program to the extent allowable by Commonwealth of Puerto Rico and federal law”*.

The Municipality Official indicated that the Municipality has not developed a Sediment and Erosion Controls Program. However, Section IX.A of the Cayey Construction Regulation establishes penalties for lack of implementation of erosion control measures (for example, silt fence, hay bales, and dikes) at construction sites.

- c. **Requirements to control waste** – Section 2.4.5.4.c of the 2016 MS4 Permit requires the implementation of requirements to control waste and prohibit discharges.

⁶ In English, “Regulations to Establish the Procedure to Prevent, Detect and Eliminate Pollution from Construction and Post-Construction Activities.” For purpose of this Inspection Report, this Ordinance is referred as “Cayey Construction Regulation.”

Section IX.A of the Cayey Construction Regulation establishes penalties for improper disposal of waste, such as the discharge or dumping of concrete washout, water from cleaning painting equipment, construction debris, defective truck wash area, and obstruction of the MS4.

- d. **Construction Plan Review Procedures** – Section 2.4.5.3.d of the 2016 MS4 Permit requires that *“permittees must maintain and implement site plan review procedures that describe which plans will be reviewed as well as when an operator may begin construction.”*

The Municipality Officials indicated that the Municipality has not established procedures for site plan review. Section VIII of the Cayey Construction Regulation authorize the Municipality to review the documents presented by the construction project owner, which includes the Stormwater Pollution Prevention Plan (SWPPP). The Municipality has the authority to issue recommendations to those documents but does not issue the construction permits.

- e. **Procedures for pre-construction review** – Section 2.4.5.3.e of the 2016 MS4 Permit requires that *“permittees must maintain and implement pre-construction review procedures that describe which environmental requirements for the construction project are applicable, including the environmental permits, as well as to establish the responsible party (e.g., owner, developer, contractor, among others) of the construction project.”*

The Municipality Officials indicated that the Municipality has not established a written pre-construction review procedure.

- f. **Construction Site Inspection and Enforcement** - Section 2.4.5.3.f of the 2016 MS4 Permit requires that *“permittees shall implement written procedures for inspecting large and small construction projects for sediment and erosion control measures”*.

The Municipality’s official indicated that the Municipality has not developed written procedures for inspecting construction projects. Section XIII.B of the Cayey Construction Regulation authorizes the Municipality’s officials to enter construction sites and perform inspections to assess compliance. The last inspection performed by the Municipality’s consultant (ECOSTALIA) at a construction site was on December 19, 2018.⁷ No further inspections have been conducted after this date.

⁷ Ms. Almedina provided a copy of the inspection checklist used at the December 19, 2018, inspection.

Inspector Maclay requested a list of construction projects for the last 5 years. The list showed three municipal projects constructed between 2022 and 2024. Upon review of the list, the Municipal Official did not show any inspection reports for such projects.

- g. **Information submitted by the public** – Section 2.4.5.3.g of the 2016 MS4 Permit requires to develop and implement “*procedures for receipt and consideration of information submitted by the public.*”

Ms. Almedina indicated that citizens can submit a complaint at the City Hall or through a telephone call, which will be referred to the appropriate office for response. In addition, they can report a complaint at the following phone number: 787-263-0880, which is the number been promoted to report citizen complaints regarding illicit discharges.

- h. **Site Plan Review Procedures** – Section 2.4.5.3.h of the MS4 General Permit requires that “site plan review procedures shall include evaluation of opportunities for use of low impact design and green infrastructure”.

The Municipal Officials indicated that the Municipality has not developed site plan review procedures.

7. FIELD ACTIVITIES

The EPA Inspector did not perform any field activities (i.e., walkthrough) during the Inspection because the Municipality indicated that no active construction projects are presently ongoing. The list of construction projects provided by the Municipality showed projects that has been completed or were in the process of being funded.

8. CLOSING MEETING

The closing meeting began at 11:30 a.m. and was held at the Municipality’s Planning Office with Ms. Almedina. Inspector Maclay indicated the areas of potential non-compliance including the lack of development, implementation, and enforcement of programs for Public Education and Outreach Program and a Construction Site Stormwater Runoff Control. Inspector Maclay also indicated that although the Municipality has adopted an ordinance and developed regulation to address discharges from construction activities, EPA found no evidence of its implementation.

In addition, the Inspector Maclay explained that a report will be prepared with the findings and observations of the Inspection and will request the Municipality to respond and submit a plan of action, including milestones, to address the findings of the Inspection. The closing meeting ended approximately at 11:50 p.m.

End of Report